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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/502,298

06/17/2005

Terence William Gander

2491-43

1583

23117 7590 08/07/2007  
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EXAMINER

BROWN, MICHAEL A

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

08/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/502,298

Applicant(s)

GANDER ET AL.

Examiner

Michael Brown

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3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 and 33-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21, 24-31 and 33-37 is/are rejected.
- 7) ☒ Claim(s) 22 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date AI/IDS.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14, 27-30, 34, 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanders '860.

Sanders discloses figures 1-4 a device of use in applying a tactile stimulus, the device comprising a sleeve 10, adapted to accommodate a finger, raised elements 12 in a region of the sleeve defined by the first 15% of its overall length measured from the distal end (fig. 1), the raised elements are arranged in a loop (the outer circumference of the raised elements provides a loop fig. 1) surrounding a blank area region (any portion of 10 that there isn't a 12 located on inside of the loop) which carries no raised elements, there are six to ten raised element on the outer sleeve surface (fig. 1), the raised elements are arranged in an approximate shape of an oval (fig. 1), the raised elements are located in the region of the device that corresponds to the underside of the wearer's finger (fig. 2), the raised element are located in a region that defined by the first 10% of the overall sleeve length measured form its distal end (fig. 1), the raised elements are located within the region of the underside of the sleeve surface defined by the first 50% of the overall sleeve length measured from its distal end (fig. 1), the raised elements take the form of dome projections, which are approximately hemispherical at

their free ends (fig. 3), the blank region of the sleeve surface is located so that in use, it corresponds to the central region (col. 1), of the underside of the wearer's finger tip, the raised elements includes two groups (the outermost raised elements and the innermost raised elements), the two groups are spaced apart circumferentially around the sleeve surface by the blank region, the two groups of raised elements include a row of two or more raised elements running approximately parallel, the raised element at least partially defines a fluid retaining region 13 that is an open-topped enclosure bound by the raised element and the outer sleeve surface (the cup region of 13 is bound by the raised element and the outer surface of the sleeve) and the sleeve surface in the fluid retaining region is substantially flat (the flat portion of 10 contains the fluid retaining region). The device is adapted for a single use. The sleeve has sufficient rigidity to retain an approximately finger shape structure unsupported, but flexible (made of rubber) with the user's finger. The sleeve is of size to accommodate the user's fingers. The circumference of the sleeve varies along the length (fig. 2). The device is for apply tactile pressure on living tissue (the scalp).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 25-26, 33, 35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders '860 in view of Haines '586.

Sanders discloses in figures 1-4 a device for using in applying a tactile stimulus, substantially as claimed. However, Sanders doesn't disclose the primary and secondary raised elements on the outer sleeve surface, wherein the secondary raised elements being positioned between primary raised elements but protruding less far above the sleeve surface, the arrangement being such that the elements together define a continuous fluid retaining wall or a fluid cell containing a lubricant. Haines teaches in figures 1-8 a finger cot having primary and secondary raised elements 4 that can vary in height (claim 6) and a lubricate formed in a fluid cell (col. 4, lines 8-11, the cell is formed between the two membranes). It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the raised elements disclosed by Sanders could be fabricated with the secondary raised element protruding less far above the sleeve than the primary raised elements as taught by Haines in order to form a continuous fluid retaining wall. The lubricant could be used to allow the sleeve to slide easier onto the finger. The lubricant would also prevent any chafing of the finger. It is old and well known to use instructions to indicate how to use a device. Clearly the device could be used to apply tactile stimulation to the genital area of the user.

Claims 16-21 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders in view of Sorrels.

Sanders discloses in figures 1-5 a device for use in applying a tactile stimulus, substantially as claimed. However, Sanders doesn't disclose the sleeve having different flexibility higher in some places than others, the sleeve having two or more higher

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flexibility regions spaced radially around the sleeve. Sorrels teaches in figure 3 a sleeve 10, having different flexibility higher at 44 than at 42, the sleeve has two areas (at the two edges of 44) of more flexibility than at 42. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the different amounts of flexibility as taught by Sorrels could be incorporated into the sleeve disclosed by Sanders in order to provide vary areas of rigidity along the sleeve. Thus, providing additional protection to the finger at the more rigid areas. The less flexible area provides a tearable portion that has a reduce thickness.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders in view of Glotkin.

Sanders discloses in figures 1-5 a device of use in applying a tactile stimulus, substantially as claimed. However, Sanders doesn't disclose the sleeve having a vent to release air. Glotkin teaches in figure 2 a sleeve 12 having a vent 18. It would have been obvious to one having ordinary skill in the art to incorporate the vent as taught by Glotkin into the sleeve disclosed by Sanders in order to facilitate the release of air during use.

#### ***Allowable Subject Matter***

Claims 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DeYarman discloses a liquid applicator. Mittiga and Allerton, each discloses a finger sleeve.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 571-272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Brown/  
07-30-07